

103^D CONGRESS
2^D SESSION

S. 2126

To amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 18 (legislative day, MAY 16), 1994

Mr. ROBB introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local Government
5 Interstate Waste Control Act”.

1 **SEC. 2. INTERSTATE TRANSPORTATION AND DISPOSAL OF**
2 **MUNICIPAL SOLID WASTE.**

3 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-
4 posal Act (42 U.S.C. 6941 et seq.) is amended by adding
5 at the end the following new section:

6 **“SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL**
7 **OF MUNICIPAL SOLID WASTE.**

8 “(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE
9 WASTE.—

10 “(1) IN GENERAL.—

11 “(A) AUTHORIZATION.—Subject to sub-
12 sections (b) and (e), the owner or operator of
13 a facility that is a landfill or incinerator in a
14 State may not receive for disposal or inciner-
15 ation any out-of-State municipal solid waste un-
16 less the owner or operator obtains authorization
17 to receive the waste from the affected local gov-
18 ernment.

19 “(B) REQUIREMENTS FOR AUTHORIZA-
20 TION.—An authorization granted pursuant to
21 subparagraph (A) shall be—

22 “(i) granted by formal action at a
23 meeting;

24 “(ii) recorded in writing in the official
25 record of the meeting; and

26 “(iii) final.

1 “(2) INFORMATION.—Prior to taking formal ac-
2 tion with respect to granting authorization to receive
3 out-of-State municipal solid waste pursuant to this
4 subsection, an affected local government shall re-
5 quire the owner or operator of the facility seeking
6 the authorization to provide the following informa-
7 tion (which the government shall make readily avail-
8 able to the Governor of the State, each adjoining
9 local government and Indian tribe, and any other in-
10 terested person for inspection and copying):

11 “(A) A brief description of the facility, in-
12 cluding the size of, ultimate waste capacity of,
13 and the anticipated monthly and yearly quan-
14 tities (expressed in terms of volume) of waste to
15 be handled by—

16 “(i) the facility as in existence on the
17 date of provision of the information; and

18 “(ii) the facility, including any
19 planned expansion.

20 “(B) A map of the facility site indicating
21 location in relation to the local road system and
22 topography and hydrogeological features. The
23 map shall indicate any buffer zones to be ac-
24 quired by the owner or operator as well as all
25 facility units.

1 “(C) A description of the environmental
2 characteristics of the site, as in existence on the
3 date of provision of the information, including
4 information regarding ground water resources,
5 and a discussion of alterations in the character-
6 istics of the site that may be necessitated by, or
7 occur as a result of, the facility.

8 “(D) A description of appropriate environ-
9 mental controls to be used on the site, including
10 runoff or runoff management (or both), air pol-
11 lution control devices, source separation proce-
12 dures (if any), methane monitoring and control,
13 landfill covers, liners or leachate collection sys-
14 tems, and monitoring programs. In addition,
15 the description shall include a description of
16 any waste residuals generated by the facility,
17 including leachate or ash, and the planned man-
18 agement of the residuals.

19 “(E) A description of site access controls
20 to be employed, and roadway improvements to
21 be made, by the owner or operator, and an esti-
22 mate of the timing and extent of increased local
23 truck traffic.

24 “(F) A list of all required Federal, State,
25 and local permits.

1 “(G) Estimates of the personnel require-
2 ments of the facility, including information re-
3 garding the probable skill and education levels
4 required for jobs at the facility. To the extent
5 practicable, the information shall distinguish
6 between employment statistics for skill and edu-
7 cation levels required prior to operation of the
8 facility, and the statistics for the levels required
9 on or after the first day of operation of the fa-
10 cility.

11 “(H) Any information that is required by
12 State law to be provided with respect to any
13 violation of environmental laws (including regu-
14 lations) by the owner, the operator, and any
15 subsidiary of the owner or operator, the disposi-
16 tion of enforcement proceedings taken with re-
17 spect to the violation, and corrective action and
18 rehabilitation measures taken as a result of the
19 proceedings.

20 “(I) Any information that is required by
21 State law to be provided with respect to gifts
22 and contributions made by the owner and oper-
23 ator.

24 “(J) Any information that is required by
25 State law to be provided by the owner or opera-

1 tor with respect to compliance by the owner or
2 operator with the State solid waste manage-
3 ment plan in effect pursuant to section 4007.

4 “(3) NOTIFICATION PRIOR TO FORMAL AC-
5 TION.—Prior to taking formal action with respect to
6 granting authorization to receive out-of-State munic-
7 ipal solid waste pursuant to this subsection, an af-
8 fected local government shall—

9 “(A) notify the Governor, adjoining local
10 governments, and any adjoining Indian tribes,
11 of the proposed action;

12 “(B)(i) publish notice of the action in a
13 newspaper of general circulation at least 30
14 days before holding a hearing and again at
15 least 15 days before holding the hearing; or

16 “(ii) if State law provides for an alternate
17 form of public notification, provide such notifi-
18 cation concerning the action; and

19 “(C) provide an opportunity for public
20 comment on the action, including at least 1
21 public hearing, in accordance with State law.

22 “(4) NOTIFICATION OF ACTION.—The local gov-
23 ernment shall notify the Governor, adjoining local
24 governments, and any adjoining Indian tribes of an
25 authorization granted under this subsection.

1 “(b) LIMITATIONS ON APPLICABILITY.—

2 “(1) LANDFILLS AND INCINERATORS IN OPER-
3 ATION OR UNDER CONSTRUCTION.—Subsection (a)
4 shall not apply to an owner or operator of a facility
5 that is a landfill or incinerator with respect to the
6 landfill or incinerator if—

7 “(A)(i) during the 1-year period preceding
8 the date of enactment of this section, the owner
9 or operator received at the landfill or inciner-
10 ator, in accordance with State law (as in effect
11 during the 1-year period), documented ship-
12 ments (within the meaning of paragraph (2)) of
13 out-of-State municipal solid waste; or

14 “(ii) before the date of enactment of this
15 section, entered into a host agreement or other-
16 wise obtained legally binding, documented au-
17 thorization from the affected local government
18 to accept out-of-State municipal solid waste;
19 and

20 “(B)(i) with respect to a landfill, the land-
21 fill is in compliance with all applicable Federal
22 and State laws (including regulations) relating
23 to design and location standards, leachate col-
24 lection, ground water monitoring, and financial

1 assurance for closure and post-closure care and
2 corrective action; or

3 “(ii) with respect to an incinerator, the in-
4 cinerator is in compliance with the applicable
5 requirements of section 129 of the Clean Air
6 Act (42 U.S.C. 7429) and applicable State laws
7 and regulations relating to facility design.

8 “(2) DOCUMENTATION OF SHIPMENT.—For
9 purposes of paragraph (1)(A)(i), a shipment of mu-
10 nicipal solid waste shall be considered a documented
11 shipment if the owner or operator of the landfill or
12 incinerator concerned provides documentation of the
13 shipment (including the quantity, time, and place of
14 the shipment) to the Governor of the State in which
15 the landfill or incinerator is located.

16 “(c) AUTHORITY OF GOVERNOR TO RESTRICT OUT-
17 OF-STATE MUNICIPAL SOLID WASTE DISPOSED OF AT
18 LANDFILLS.—

19 “(1) IN GENERAL.—

20 “(A) LIMITATIONS ON EXEMPTED LAND-
21 FILLS.—

22 “(i) IN GENERAL.—In response to a
23 written request by each of an affected local
24 government and an affected local solid
25 waste planning unit (if the local solid

1 waste planning unit exists under State
2 law), a Governor may limit the quantity of
3 out-of-State municipal solid waste received
4 for disposal, during a 1-year period, at a
5 landfill described in clause (ii) to a quan-
6 tity equal to the quantity of out-of-State
7 municipal solid waste received for disposal
8 at the landfill during the 1-year period pre-
9 ceding the date of enactment of this sec-
10 tion.

11 “(ii) LANDFILL.—The landfill re-
12 ferred to in clause (i) shall be a landfill in
13 the State, the owner or operator of which
14 is exempt, under subsection (b), from the
15 requirements of subsection (a) on the basis
16 of receiving shipments as described in sub-
17 section (b)(1)(A)(i).

18 “(B) PROCEDURAL REQUIREMENTS FOR
19 REQUEST.—Prior to submitting a request under
20 this subsection to limit the disposal of out-of-
21 State municipal solid waste, an affected local
22 government and the affected local solid waste
23 planning unit, if any, shall—

1 “(i) provide notice and an opportunity
2 for public comment concerning the pro-
3 posed request; and

4 “(ii) after providing the notice and
5 opportunity for public comment, take for-
6 mal action concerning the proposed request
7 at a public meeting.

8 “(2) RESPONSE BY GOVERNOR.—With respect
9 to requests made by affected local governments
10 under paragraph (1)(A), the Governor shall respond
11 in a consistent manner that does not discriminate
12 against any—

13 “(A) particular landfill within the State; or

14 “(B) shipment of out-of-State municipal
15 solid waste on the basis of State of origin.

16 “(3) LIMITATION ON AUTHORITY OF GOV-
17 ERNOR.—A Governor may not exercise the authority
18 granted under this subsection if the action would be
19 inconsistent with State law or would result in the
20 violation of or failure to perform any provision of a
21 written, legally binding contract for disposal of out-
22 of-State municipal solid waste at a landfill executed
23 prior to the date of enactment.

24 “(d) EXISTING AGREEMENTS.—

1 “(1) IN GENERAL.—Nothing in this section is
2 intended to affect an agreement in effect on the date
3 of enactment of this section or other State law in ef-
4 fect on the date of enactment of this section (except
5 as expressly provided otherwise in this section).

6 “(2) AVAILABILITY OF CONTRACTS.—The
7 owner or operator of a landfill or incinerator that is
8 exempt, under subsection (b), from the requirements
9 of subsection (a), shall make available for inspection
10 by the public, in the affected local community, a
11 copy of each contract that the owner or operator has
12 entered into for the disposal of out-of-State municip-
13 al solid waste at that landfill or incinerator. The
14 owner or operator may redact any proprietary infor-
15 mation contained in such a copy of a contract, but
16 shall ensure that at least information relating to the
17 volume of out-of-State municipal solid waste to be
18 received, the source of the waste, and the duration
19 of the contract, is apparent in the copy.

20 “(e) APPLICABILITY.—

21 “(1) IN GENERAL.—Except as provided in para-
22 graph (2), this section applies in and to each State.

23 “(2) REJECTION OF APPLICABILITY.—A State
24 may exercise the option to become exempt from the
25 requirements of this section if the State—

1 “(A) notifies the Administrator (in a man-
2 ner prescribed by the Administrator) that the
3 State is exercising the option; and

4 “(B) in taking any appropriate action to
5 reject the applicability of this section, makes
6 specific reference to this section.

7 “(3) ACKNOWLEDGEMENT OF EXEMPTION.—On
8 receipt of a notification by a State pursuant to para-
9 graph (2)(A), the Administrator shall take such ac-
10 tion as is appropriate to acknowledge the exemption
11 of the State from the requirements of this section.

12 “(f) DEFINITIONS.—As used in this section:

13 “(1) AFFECTED LOCAL GOVERNMENT.—The
14 term ‘affected local government’, used with respect
15 to a landfill or incinerator, means the elected offi-
16 cials of the city, town, borough, county, or parish,
17 with primary jurisdiction over the use of the land on
18 which the facility is located or proposed to be lo-
19 cated.

20 “(2) AFFECTED LOCAL SOLID WASTE PLAN-
21 NING UNIT.—The term ‘affected local solid waste
22 planning unit’ means a political subdivision of a
23 State with authority relating to solid waste manage-
24 ment planning in accordance with State law.

1 “(3) HOST AGREEMENT.—The term ‘host
2 agreement’ means a written, legally binding agree-
3 ment, lawfully entered into between an owner or op-
4 erator of a landfill or incinerator and an affected
5 local government that authorizes the landfill or in-
6 cinerator to receive municipal solid waste generated
7 outside the jurisdiction of the affected local govern-
8 ment.

9 “(4) MUNICIPAL SOLID WASTE.—

10 “(A) IN GENERAL.—The term ‘municipal
11 solid waste’ means solid waste that is refuse (or
12 refuse-derived fuel) generated by the general
13 public or from residential, commercial, institu-
14 tional, or industrial sources and that consists of
15 paper, wood, yard wastes, food wastes, plastics,
16 leather, rubber, or other combustible materials
17 or noncombustible materials such as metal,
18 glass, and rock.

19 “(B) EXCLUSIONS.—The term does not in-
20 clude—

21 “(i) hazardous waste or waste con-
22 taining polychlorinated biphenyls;

23 “(ii) industrial waste;

24 “(iii) medical waste;

1 “(iv) recyclable materials that have
2 been separated from waste otherwise des-
3 tined for disposal (either at the source of
4 the waste or at processing facilities) or
5 that have been managed separately from
6 waste destined for disposal; and

7 “(v) materials and products returned
8 from a dispenser or distributor to the man-
9 ufacturer or an agent of the manufacturer
10 for credit, evaluation, and possible reuse.

11 “(5) OUT-OF-STATE MUNICIPAL SOLID
12 WASTE.—The term ‘out-of-State municipal solid
13 waste’, used with respect to a State, means munici-
14 pal solid waste generated outside of the State.

15 “(6) OWNER OR OPERATOR.—The term ‘owner
16 or operator’, used with respect to a landfill or incin-
17 erator, does not include—

18 “(A) a State or affected local government
19 that owns or operates the landfill or incinerator,
20 if the facility is located within the jurisdiction
21 of the State or the affected local government; or

22 “(B) a person who owns or operates a fa-
23 cility, if the facility receives only waste gen-
24 erated by the person.”.

1 (b) TABLE OF CONTENTS AMENDMENT.—The table
2 of contents of the Solid Waste Disposal Act (42 U.S.C.
3 prec. 6901) is amended by adding at the end of the items
4 relating to subtitle D the following new item:

“Sec. 4011. Interstate transportation and disposal of municipal solid waste.”.

○